

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 Kai-Eathe Samyl Lee,

5 Plaintiff

6 v.

7 The Vons Companies, Inc., et al.,

8 Defendants

Case No. 2:24-cv-00179-CDS-NJK

Order Granting in Part Motion for
Attorney's Fees and Costs

[ECF No. 42]

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10 This was a slip and fall action initiated by plaintiff Kai-Eathe Samyl Lee in the Eighth
11 Judicial District Court, Clark County, Nevada in November of 2023. In January 2024, defendant
12 Vons Companies, Inc., removed this action to this court based on alleged diversity jurisdiction.
13 ECF No. 1. Lee filed a motion to remand (ECF No. 26) which was ultimately granted. Remand
14 order, ECF No. 41. Lee filed a motion for attorney's fees and costs pursuant to Rule 54 of the
15 Federal Rules of Civil Procedure. Mot., ECF No. 42. The motion is now fully brief. Opp'n, ECF
16 No. 43¹; Reply, ECF No. 44. For the reasons set forth herein, I grant Lee's motion for attorney's
17 fees and costs in part and deny Lee's motion for sanctions.

18 I. Discussion

19 A. Attorney's fees and costs

20 "[C]ourts may award attorney's fees under § 1447(c) only where the removing party
21 lacked an objectively reasonable basis for seeking removal. . . ." *Garmong v. Maupin (In re Garmong)*,
22 2023 U.S. App. LEXIS 26947, *2 (9th Cir. 2023) (internal citation omitted). "[R]emoval is not
23 objectively unreasonable solely because the removing party's arguments lack merit, or else
24 attorney's fees would always be awarded whenever remand is granted." *Lussier v. Dollar Tree Stores,*
25 *Inc.*, 518 F.3d 1062, 1065 (9th Cir. 2008).

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¹ Defendants' response was docketed as a Reply, however upon review it is clear this is defendants' opposition.

1 *1. Lee's motion for attorney's fees is granted in part.*

2 I have already determined that plaintiff is entitled to attorney's fees as I granted
 3 plaintiff's request for such when I issued the remand order.² See ECF No. 41 at 8. But, as noted by
 4 defendants,³ my order was **limited** to plaintiff's "fees incurrent in litigating remand." *Id.* Lee's
 5 motion seeks fees unrelated to litigating the remand motion and includes a motion for Federal
 6 Rule of Civil Procedure 11 sanctions.⁴ To the extent Lee sought to expand my order regarding
 7 the scope of fees owed, she should have filed a motion for reconsideration but failed to do so. I
 8 am not inclined to expand or amend my previous order limiting fees to those related to litigating
 9 the remand order, so I turn to the reasonableness of Lee's requested fees related to litigating the
 10 remand motion.

11 One acceptable method of determining the reasonableness of attorney's fees is applying
 12 the "lodestar" method. *Gonzalez v. City of Maywood*, 729 F.3d 1196, 1202 (9th Cir. 2013). When
 13 seeking attorney's fees, a party must comply with Local Rule 54-14, which specifically delineates
 14 what must be included in the motion for attorney's fees. See LR 54-14. That rule requires any
 15 application for attorney's fees to include an attorney affidavit, "[a] reasonable itemization and
 16 description of the work performed[.]" and "[a] brief summary" of thirteen categories of
 17 information designed to elicit more information about the case and the work that the attorney
 18 performed. *Id.* at (a)(1), (3). Lee's motion and accompanying exhibits provide a very brief
 19 description of the work performed, information regarding time utilized, information regarding
 20 the requisite skill level for the services provided, the experience, reputation, and ability of the
 21 attorney and staff who worked on the case.⁵ See ECF Nos. 42-2; 42-3; 42-4. Lee's motion also

22 ² For clarity, given the timeline related to the improper removal, I determine that Vons' removal was
 23 objectively unreasonable, but not frivolous. However, this being a close call which is precisely why I
 24 limited attorney's fees to those related to litigating the remand motion. At no time did I find that
 25 defendants' removal was frivolous or brought in bad faith, as Lee argues here. See ECF No. 42 at 3.

26 ³ Opp'n, ECF No. 43 at 3.

⁴ The request for Rule 11 sanctions is addressed further herein.

⁵ Lee also presents argument regarding the novelty and difficulty of the motion. ECF No. 42 at 11. Those representations are not persuasive. Lee's motion to remand was run of the mill. Lee's motion also

discusses the undesirability of the case and the fact that this is the first case in which counsel represented the plaintiff. ECF No. 42 at 11. Counsel for Lee argues that he is entitled to attorney's fees in the amount of \$750 per hour for his work and \$175 per hour for the paralegal work on this action.

Aside from violating my order regarding the scope of fees Lee is permitted to recover, Lee's motion generally meets the lodestar standard, so I grant Lee's motion in part. I reviewed the itemized bill and determined that plaintiff is entitled to 18.9 hours of attorney work and 8.4 hours of paralegal work. Mr. Peetris, counsel for plaintiff, argues that he is entitled to \$750 per hour for his work, based on his experience together with the fee agreement with his client, and \$175 per hour for the work of his paralegal. ECF No. 42-2. As noted herein, this motion and action is a straightforward personal injury case and related remand motion. There is nothing particularly complex about the case. It is certainly relevant that Mr. Peetris has twenty-seven years of experience, but I do not find any case law supporting an hourly rate of \$750. Rather, the most recent approved rate for attorneys with eighteen to thirty years of experience is \$500 per hour. *See Zap's Elec., LLC v. Monarch Constr., LLC*, 2024 WL 1721002, at *8 (D. Nev. Apr. 18, 2024) (collecting cases). Lee provides no information regarding the reasonable hourly rate for paralegals. Accordingly, I award Lee's attorney 18.9 hours of fees at the rate of \$500 an hour, for a total of \$9,450 and 8.4 hours of paralegal work at the rate of \$100 an hour, a total of \$840.

2. Costs

"(A) party in whose favor judgment is rendered is generally the prevailing party for purposes of awarding costs under Rule 54(d)." *Amarel v. Connell*, 102 F.3d 1494, 1523 (9th Cir. 1997) (quoting *d'Hedouville v. Pioneer Hotel Co.*, 552 F.2d 886, 896 (9th Cir. 1977)). In diversity actions, a federal court must also determine if the requested fees are reasonable pursuant to state law. *See Canada Life Assur. Co. v. LaPeter*, 563 F.3d 837, 947 (9th Cir. 2009). Nevada provides that

discusses the undesirability of the case and the fact that this is the first case in which counsel represented the plaintiff. *Id.*

1 reasonableness is subject to the discretion of the court, which “is tempered only by reason and
2 fairness.” *Shuette v. Beazer Homes Holdings Corp.*, 124 P.3d 530, 548–49 (Nev. 2005) (quoting *Univ. of*
3 *Nevada v. Tarkanian*, 879 P.2d 1180, 1186, 1188 (Nev. 1994)).

4 As the prevailing party, Lee is entitled to costs pursuant to Rule 54(d). Defendants’
5 opposition to Lee’s motion for costs is persuasive. Lee seeks to recover costs from before this
6 case was removed to federal court, thus unrelated to the costs of litigating the remand motion.
7 Accordingly, based on the information before court,⁶ Lee is entitled to \$25.30 in costs for Pacer’s
8 e-filings. Accordingly, Lee’s motion for attorney’s fees and costs is granted in part. Lee is entitled
9 to attorney’s fees in a total amount of \$9,450. Lee is also entitled to \$840 for the paralegal’s
10 work. Last, Lee is entitled to \$25.30 in costs.

11 **B. Lee’s motion for Rule 11 sanctions is denied.**

12 An attorney is subject to Rule 11 sanctions when, inter alia, he presents to the court
13 “claims, defenses, and other legal contentions . . . [not] warranted by existing law or by a
14 nonfrivolous argument for the extension, modification, or reversal of existing law or the
15 establishment of new law.” Fed. R. Civ. P. 11(b)(2). When sanctions are sought by opposing
16 counsel, opposing counsel **must** comply with Rule 11’s “safe harbor” provision. *See Barber v. Miller*,
17 146 F.3d 707, 710–11 (9th Cir. 1998) (emphasis added). The safe harbor provision provides that a
18 party may not file a motion for sanctions under Rule 11 unless the party against whom sanctions
19 are sought is served with the motion and given twenty-one days to either withdraw or correct
20 the paper that is the subject of the motion. Fed. R. Civ. P. 11(c)(2). The procedural requirements
21 of Rule 11 are mandatory and strictly enforced. *Radcliffe v. Rainbow Constr. Co.*, 254 F.3d 772, 789
22 (9th Cir. 2001); *Holgate v. Baldwin*, 425 F.3d 671, 678 (9th Cir. 2005). There is no evidence that Lee
23 complied with the procedural requirements of Rule 11 so the motion for sanctions is denied.

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⁶ See ECF No. 42-4 at 2-5.

1 **II. Conclusion**

2 IT IS THEREFORE ORDERED that Lee's motion for attorney's fees and costs is [ECF
3 No. 42] is GRANTED in part. Lee is entitled to attorney's fees in a total amount of \$9,450,
4 \$840 for the paralegal's work, and \$25.30 in costs.

5 IT IS FUTHER ORDERED that Lee's motion for sanctions is DENIED.

6 Dated: December 17, 2024

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9 Cristina D. Silva
10 United States District Judge
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